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Loss and damage explainer*

Introduction

In the climate change context, “loss and damage” does not have an agreed definition. It is generally understood as irreversible or residual results from climate change impacts where adaptation is no longer possible. Sea level rise, tropical storms, floods, droughts, wildfires etc. are examples of impacts that can lead to loss and damage. The concept refers to both economic and non-economic losses, such as loss of culture, health, and biodiversity.

In 1991, during the negotiation of the UN Framework Convention on Climate Change (UNFCCC), the Alliance of Small Island States (AOSIS) called for action to address loss and damage. It was not until 2007 at COP 13, however, that loss and damage was first mentioned in a COP decision (the Bali Action Plan, [Decision I/CP.13 para. 1c\(iii\)](#)).

Since then, promotion of the implementation of approaches to address loss and damage gained

momentum, culminating in the establishment of the Warsaw International Mechanism for Loss and Damage (WIM) in 2013. However, it was not until the Paris climate conference in 2015 that developing countries succeeded in including a freestanding article on “loss and damage associated with the adverse effects of climate change” in the international climate change regime (Article 8 of the Paris Agreement).

Agreement to Article 8 represented global acknowledgment of the limits of humans and ecosystems to adapt to the impacts of climate change, and formally distinguished the issue from that of adaptation. However, the language used was carefully crafted to avoid creating financial commitments beyond the funding of mitigation and adaptation actions on the part of developed countries. Moreover, Article 8 does not differentiate between developed and developing countries and their potential roles in and responsibilities for addressing loss and damage.

Loss and damage & science

Since the adoption of the Paris Agreement in 2015, scientific assessments have shone a light on the immediacy of the risk of reaching human and ecosystem limits and the urgency required to address loss and damage. In 2018, the IPCC published a [special report](#) on the impacts of global warming of 1.5°C, which states that at 1.5°C, limits to adaptation will be reached, resulting in loss and damage in particularly vulnerable developing

countries. More recently in 2022, the IPCC’s Working Group II (WGII) [published](#) its contribution to the Sixth Assessment Report. For the first time, they assessed the scientific literature on loss and damage across sectors and regions linked to: adaptation constraints and limits; global warming levels; and incremental and/or transformational adaptation to climate risks.

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Warsaw International Mechanism for Loss and Damage and its Executive committee

Proposals to establish a mechanism to address loss and damage were first raised in 2008, but it was not until 2013, at COP 19, that Parties to the UNFCCC [agreed](#) to establish the Warsaw International Mechanism for Loss and Damage (WIM) to address loss and damage associated with the impacts of climate change, in developing countries that are particularly vulnerable to climate change. COP 19 also established the WIM executive committee (ExCom) to guide the implementation of the WIM's three core functions:

- Enhancing knowledge and understanding of comprehensive risk management approaches;
- Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders;
- Enhancing action and support, including finance, technology and capacity-building.

The ExCom comprises of 20 members – 10 from Annex I (developed country) Parties and 10 from non-Annex I (developing country) Parties.

The Paris Agreement integrates the WIM as part of its institutional architecture (Article 8.2) stating that the WIM is subject to the authority and guidance of the CMA. However, it remains open to interpretation as to whether this provision indicates that the role of the COP in governing the WIM has now been superseded. The question of the governance of the WIM has become a political matter and remains unresolved. For more information on this issue, please see the LRI's legal advice on the topic.¹ In the meantime, decisions relating to the WIM are generally negotiated under the CMA and endorsed by the COP.

The Paris outcome on loss and damage also expanded the WIM: the ExCom was requested to establish a clearing house for risk transfer,² “that serves as a repository for information on insurance and risk transfer, to facilitate the efforts of Parties to develop and implement comprehensive risk management strategies”³. The Fiji Clearing House for Risk Transfer, launched at COP 23, contains information on, among other things, institutions that could help countries design and implement risk transfer approaches, case studies and tutorials.

The ExCom was also mandated to establish a Task Force on

Displacement to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change.

The five-year rolling work plan of the ExCom outlines mandated activities to implement the WIM's functions. These activities are divided into five strategic workstreams: 1) slow onset events; 2) non-economic losses; 3) comprehensive risk management approaches; 4) human mobility in the context of climate change; and 5) action and support. The ExCom is assisted in its work by five expert groups, one for each workstream.

At COP 27, in Sharm El Sheikh,⁴ the second five-year rolling work plan for the period 2023 to 2027 was adopted. The work plan engages numerous stakeholders, including indigenous peoples, researchers, civil society organisations, environmental organisations, youth, and women, among others.

The WIM's structure, mandate, and effectiveness were reviewed in 2016 and in 2019. In both reviews, developing countries demanded a greater emphasis on enhancing action and support, and called for an ‘implementation arm’ for the WIM.

Santiago Network on Loss and Damage

The outcome of the second WIM review included the establishment of the Santiago network for loss and damage (Santiago network) to catalyse the technical assistance of relevant organisations, bodies, networks and experts (OBNEs) for the implementation of relevant approaches at the local, national and regional level in vulnerable developing countries.⁵ At COP 26, Parties agreed on the functions of the Santiago network,⁶ which include catalysing demand-driven technical assistance by identifying, prioritising, and communicating needs and priorities; connecting those seeking assistance with entities providing it; and facilitating the consideration of substantive issues, access to information and technical assistance.

Parties at COP 26 also decided that the Santiago network would be provided with funds to support technical assistance.⁷ Funding modalities were not adopted at COP 27, but Parties agreed on the institutional arrangements to fully operationalise the network. These include a hosted secretariat, to provide administrative and infrastructural support for its effective functioning; an Advisory Board (part of the WIM) that will provide guidance and oversight to the Santiago network secretariat; as well as a network of member OBNEs.

¹ <https://legalresponse.org/legaladvice/moving-the-warsaw-international-mechanism-for-loss-and-damage/>

² See: [Fiji Clearing House for Risk Transfer](#)

³ See: [Decision 1/CP.21, para 48](#)

⁴ See: [Second five-year rolling workplan of the WIM ExCom](#)

⁵ See: [Decision 2/CMA.2, para 43](#)

⁶ See: [Decision 19/CMA.3, para. 9](#)

⁷ See: [Decision 1/CMA.3, paragraph 67](#)

Also at COP 27, Parties set out the roles and responsibilities of the network secretariat and Advisory Board and a wide range of other details including the criteria to evaluate proposals and select the host of the Santiago network secretariat and selection of Advisory Board members ([Decision 12/CMA.4](#)).⁸ Responding to the call for proposals to host the Santiago network secretariat, the Caribbean Development Bank,⁹ and the UN Offices for Disaster Risk Reduction and for Project Services¹⁰ submitted their applications. Proposals will be recommended by SB 58 for examination and adoption at COP 28. Until then, the UNFCCC secretariat will support countries requesting technical assistance from the network.

Glasgow Dialogue

At COP 26, the Alliance of Small Island States (AOSIS) proposed the establishment of the Loss and Damage Finance Facility. This was supported by the G77 and China, but opposition from developed countries blocked its adoption. In lieu of this, as a compromise, Parties decided to establish the Glasgow Dialogue between Parties, relevant organisations, and stakeholders to discuss the funding arrangements for activities to avert, minimise, and address loss and damage. The first session of the Glasgow Dialogue took place during the 56th session of the Subsidiary Body for Implementation (SBI), with the second dialogue scheduled for June 2023 during the SBI 58 session, and it is anticipated to conclude in June 2024 during the SBI 60 session.

Funding arrangements including a fund

Many vulnerable developing countries were concerned that the Glasgow Dialogue would not result in a tangible outcome and continued to call for the establishment of a fund. This finally made it onto the agenda of the COP and CMA in Egypt.

COP 27 established funding arrangements, including the first-ever dedicated fund for loss and damage,¹¹ which will provide financial assistance to particularly vulnerable developing countries in responding to loss and damage.

The fund and funding arrangements will be operationalised on the basis of recommendations from the newly established Transitional Committee (TC). The TC is composed of twenty-four members from both developing and developed countries. It will consider, among other things, the institutional arrangements, modalities,

structure, governance, and terms of reference of the fund, and the elements of the new funding arrangements.¹²

The work of the TC and its recommendations will be informed by the existing landscape of institutions and solutions in line with the [COP 27](#) and [CMA 4](#) decisions that the new funding arrangements include the sources, funds, processes and initiatives under and outside the UNFCCC and the Paris Agreement.

The TC convened for the first time at the end of March this year to begin its work. It agreed on its working arrangements and an ambitious work plan comprising three further TC meetings and two technical workshops. The TC's work will conclude with the consideration of its recommendations for adoption at COP 28/CMA 5.

Outside of the UNFCCC, interest is increasing in the Bridgetown Initiative, which proposes to reform access to, and the types of, international finance available to countries most vulnerable to climate change.¹³ It is being advanced as part of an international summit on a new global financial pact, to be convened in late June by President Macron of France and Prime Minister Narendra Modi of India (Chair of the G20). Reforms of multilateral development banks, including the World Bank Group and the International Monetary Fund will be discussed during the summit, which include mobilising innovative financing for countries vulnerable to climate change in the agenda. Finally, the Global Shield against Climate Risks is gaining momentum. This is a joint G7 and V20 initiative that was launched at COP 27 to better protect poor and vulnerable people from catastrophes by pre-arranging more financing before disasters strike.

Issues scheduled to be discussed at SB 58 (June 2023) and COP 28/CMA 5

WIM:

Considerations related to the governance of the WIM.

Santiago Network: Consideration of the evaluation report of proposals for hosting the Santiago network and a draft decision containing a single proposal of the host, to be considered by Parties at COP 28/CMA 5, followed by establishment of the secretariat. The second crucial process in 2023 will be the election of members of the Advisory Board, which will take place at COP 28.

Glasgow Dialogue: The second Glasgow Dialogue is scheduled for June 2023 at SB 58. The dialogue will centre

⁸ Linda Siegele and Heidi White (2023). Unpacking the COP 27 decision on the Santiago Network. Available [online](#)

⁹ See: [Caribbean Development Bank Executive summary | UNFCCC](#)

¹⁰ See: [Joint Submission by UNDRR and UNOPS Executive Summary](#)

¹¹ See: [Decision 2/CMA.4](#)

¹² See: https://unfccc.int/sites/default/files/resource/cp2022_10a01_adv.pdf#page=11 and https://unfccc.int/sites/default/files/resource/cma2022_10a01_adv.pdf#page=13, paras. 5 and 6.

¹³ See: [Barbados calls for finance reform to fight climate change | World Economic Forum](#)

on the loss and damage fund and funding arrangements and will inform the Transitional Committee's work. The third Glasgow Dialogue is scheduled for June 2024 at SBI 60.

Funding arrangements: four Transitional Committee meetings and two workshops on the operationalization of a fund and funding arrangements for loss and damage will take place before COP 28/CMA 5. Ministerial consultations will also be convened prior to that the year-end conference. The TC's work will conclude with the consideration of its recommendations for adoption at COP 28/CMA 5. It should be noted that there is no agenda item for the TC at SB 58.

Communicating about loss and damage

There are no compulsory actions for countries to take in relation to loss and damage in the UNFCCC regime. Here, we highlight opportunities for Parties to communicate about loss and damage under the Paris Agreement. A Party may choose to report on loss and damage for a number of reasons, mainly to:

- share its meaning and understanding of the concept;
- set a marker for the types and level of harm its people, environment, and economy are experiencing;
- emphasise its ongoing or planned national initiatives and responses;
- identify support needs;
- request international cooperation and support in dealing with loss and damage.

Inclusion in NDCs

Parties are not obligated to include information on loss and damage in their NDCs. However, according to an [academic review](#) of NDCs updated in the run up to COP 26 (as of 15 September 2021), one third of these mentioned loss and damage explicitly.

Haiti's [NDC](#), for example, provides costed measures planned to avert, minimise and address loss and damage, while Sri Lanka's [NDC](#) assigns time-frames for five nationally determined contributions on loss and damage.

Inclusion as part of adaptation information

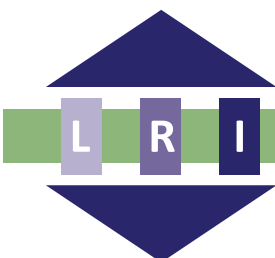
Parties have an opportunity to include information on climate impacts, risks and vulnerabilities, which could include loss and damage, in the adaptation communication that they are encouraged to regularly submit and update (Paris Agreement Article 7.9 - 7.11 and Decision 9/CMA.1, Annex)

Inclusion in Biennial Transparency Reports (BTRs)

There is a further opportunity to include information on loss and damage, when reporting on climate change impacts and adaptation, in the BTRs that parties will have to submit every two years under the new Enhanced Transparency Framework of the PA. Information might relate to observed or potential impacts, activities to prevent, reduce or remedy the adverse effects and institutional arrangements to facilitate the implementation of these activities. This information may then be reviewed as part of the technical expert review process if a Party so requests. The review will help identify areas of improvement and capacity-building needs related to reporting.

Inclusion in the GST process

Loss and damage will also be part of the technical phase of the Global Stocktake (GST): Parties and other stakeholders are invited to include loss and damage as part of their submission to the GST (at the time of writing, of the [125 submissions on the GST](#) that include loss and damage, 21 were by Parties). The WIM ExCom, along with other bodies constituted under the Convention and Paris Agreement, is also invited to prepare a synthesis report for this phase. Both reports and submissions will be considered during the GST's technical dialogue, thereby offering the potential for it to be included in the outcomes of the political phase.



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